SUPREME COURT, U. S.

FILED
DEC 9 1966
JOHN F. DAVIS, CLERK

In the Supreme Court
OF THE
United States

OCTOBER TERM, 1966

No. 850

NATHANIEL BURBRIDGE, et al.,
(Appendix A),
Petitioners,

vs.

STATE OF CALIFORNIA,
Respondent.

PETITION FOR A WRIT OF CERTIORARI
to the Supreme Court of the
State of California

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PERNAU-WALSH PRINTING CO., SAN FRANCISCO

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CITATIONS TO OPINIONS BELOW

There was no opinion of the California Supreme Court. There was simply a Denial of the Petition for Writ of Habeas Corpus.

JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C., Section 1257. The decision of the California Supreme Court was rendered and filed on July 21, 1966. On September 30, 1966, Justice William O.

Douglas ordered the time for filing a Petition for Writ of Certiorari extended to December 3, 1966. On December 1, 1966, time for filing was further extended by Justice William O. Douglas to December 18, 1966.

QUESTIONS PRESENTED FOR REVIEW

I. Whether Petitioners were denied Due Process of Law by the prejudicial atmosphere created by "state action" which made a fair trial impossible.

II. Whether Petitioners were denied Due Process of Law and the Equal Protection of the Laws, and whether 28 U.S.C. 243 was violated, by the systematic exclusion of Negroes from the juries through the use of peremptory challenges.

III. Whether Petitioners were denied the Equal Protection of the Laws and Due Process of Law by the variation of sentences from a fine of less than $50 on one end of the spectrum, to a four month jail sentence on the other, where the sentencing judges assumed identical conduct and identical personal histories and character among the defendants; the variation resulting solely from differences in social views, prejudice and character among the judges.

IV. Whether Petitioners were denied Due Process of Law, a jury trial and a fair and constitutional sentence in violation of the Fourteenth Amendment where the judges offered very substantially lower sentences to Petitioners who would change their plea of "not guilty" to "nolo contendere".

V. Whether California Penal Code Section 407 is void for vagueness, especially as applied to a civil rights protest action.

VI. Whether California Penal Code Section 415 is void for vagueness, especially as applied to a civil rights protest action.

STATEMENT OF THE CASE

The convictions giving rise to this case grew out of several related sit-in demonstrations at the Sheraton-Palace Hotel and various automobile agencies, in San Francisco—the issue being racial discrimination in employment. Four hundred and seventy-four persons were arrested, approximately half were convicted, and the remainder were acquitted or their trials resulted in hung juries.

For the purpose of simplification, the facts will now be stated in categories which are keyed to the *Questions Presented for Review.*

QUESTION I.

Further detail on this point can be found in the Application and Petition of Nathaniel Burbridge for Writ of Habeas Corpus in the California Supreme Court (pp. 3-11), which instituted the case the judgment of which is sought to be reviewed.

In summary, the community was saturated, through newspapers, television and radio, with a barrage of

"facts", charges, conclusions and comments of a character that was highly prejudicial to Petitioners. In particular, the barrage made these main points concerning the sit-in defendants who were facing trial:

1. Guilty as charged.
2. Irresponsible.
3. Lawless.
4. Contemptuous of law and courts.
5. Provoking violence and endangering life.
6. Endangering the Rumford Act.
7. Engaged in mob action.
8. Intimidating the courts.
9. Fanning racism.
10. Participating in a felonious conspiracy aiming at some ulterior purpose, not civil rights.
11. Deliberately clogging the courts.
12. Bankrupting the city by causing the expenditure of more than a million dollars.

Almost immediately after the arrests, the newspapers reported the opinions of Governor Edmund G. Brown. For example, the "San Francisco News Call Bulletin" on March 10, 1964, presented a banner headline reading: "Brown Rips Hotel Sit-In." Above the headline was the sub-headline: "Pickets Violated Law." Among the statements attributed to the Governor in the accompanying news story were: "These young people . . . violated the law and endangered lives." After describing the Governor as having

sponsored key civil rights legislation, the story quoted the Governor as saying that the defendants' conduct "hurt us" in the campaign to defeat the initiative which would repeal the Rumford (Fair Housing) Act.

On the same day as the Governor's statement appeared, there was an editorial in the "News Call Bulletin" entitled, "Mobs Storm the Palace". Similarly, in the "San Francisco Examiner" of the same day, Petitioners' conduct was described as "naked lawlessness" and it was said of them that they "proclaimed contempt for the law and the courts."

From the first day on, for several months, there was not a day on which the newspapers, television and radio did not contain some item, often given great prominence, attacking, disparaging or prejudicing Petitioners.

The most significant aspect of this prejudicial atmosphere, and (so far as is known to these Petitioners) one which was unique in the whole modern civil rights struggle era in the United States, was the participation of representatives of the State in its creations. The participation of the Governor has been referred to. To him must be added Mayor John F. Shelley of San Francisco who added his bit in the "San Francisco Chronicle" of March 12, 1964, and Joseph Tinney, Finance Committee Chairman of the Board of Supervisors of San Francisco, who declared that the refusal of these Petitioners to waive jury trials would cost the City one million dollars. The import of this charge may be savored when it is pointed

out that a vital City project was, at this time, abandoned (according to City officials) for lack of a mere ten thousand dollars.

However, the most prejudicial and constitutionally significant aspect of the "state action" which served to create the "atmosphere" was the judicial participation. What should be noted about the actions and statements of the judges was their (1) unusual (non-judicial) character, (2) obvious design to prejudice Petitioners, and (3) attack on the exercise by Petitioners of their constitutional rights, such as the right to have a jury trial and the right not to plead guilty.

What apparently developed was a vicious circle. The "atmosphere" prejudiced and heated up certain judges. As a result they took certain actions and made certain statements which in turn prejudiced and heated up the atmosphere still more.

While Petitioners were awaiting trial, Superior Judge O'Connor called newsmen to his Chambers, handed out a press release, and also went on television to broadcast it. The character and effect of the statement is clear from this quotation:

> "The time has come to take a long, hard look at the recent events that have led to mass invasion of private property, interference with private business, mass arrests for violation of the law, threats of intimidation against our courts—all in the name of alleged violations of civil rights.
>
> "Our protective agencies of government, the police, sheriff's forces and the courts have been disrupted by mob violation of law and the trials of those properly accused of such violations. The

cost to the taxpayer has reached outrageous and staggering amounts.

"Basis for these demonstrations has been the demand of private groups upon lawful business to account to them for the management of their employment policies. Legal machinery for complaints has been disregarded and businesses declared guilty of discrimination without a shred of evidence or a trial.

"Leaders of these mobs are in a power struggle for control of representation of our Negro citizens. These actions have harmed legitimate civil rights and, I believe, intentionally so. Their demands are so made that they cannot be met and a demonstration and sit-in follows. This is not civil disobedience. It is a criminal conspiracy to violate the law and is a felony crime."

After handing out the above statement to reporters, Judge O'Connor said, "I'm trying to see that this ends before the first blood is shed. If that happens it'll be too late. These leaders are fanning racism."

A particularly devastating charge against Petitioners was that they were engaged in a vicious plan to "clog the courts". This involved not only the cost to the taxpayers of (allegedly) one million dollars, but also the statement that no civil case could proceed to trial in the Municipal Courts for months and months. All of the statements in connection with this charge made it clear that the courts were "clogged" because Petitioners pleaded guilty and demanded jury trials. Two examples of the participation of judges in this campaign will paint the picture.

Judge Drewes is quoted as saying, "by your pleas of not guilty and your demands for a jury trial, you transferred your demonstrations to the courts."

Judge Friedman carried the point a little farther by his complaint about the length of the trials, as to which he said: "To me it seems absurd that under the present situation an attorney representing a group of defendants can tie up a court for days on end in a mere misdemeanor matter merely because they have the right to exercise anywhere from 50 to 100 peremptory challenges, as the case may be."

Because the Municipal Court chose to divide up the defendants into groups of ten to fifteen, there were trials proceeding simultaneously, and end on end. Because all the news stories from the beginning pointed out that the conduct of Petitioners was not individually distinguishable, comments made by a judge as to one group of defendants would be considered by all readers and hearers as equally applicable to all defendants. Consequently, remarks and statements by judges had the same effect as if made by the judge before the trial and during the trial with reference to the particular defendants in the case he was trying.

Within this context must be assessed various statements by judges such as that of Judge Drewes which was made while he was sentencing:

> "Yours was a naked use of force to compel a private organization to accept your views. At the end of this road lies anarchy and tyrrany."

. . . . .

Referring to six clergymen who had pleaded *nolo contendere,* he said:

> "At least their position was one of integrity and even courage. I suggest that you compare their position with your own."

Another unusual aspect of the "atmosphere" in this situation was that in addition to prejudicing the situation so that a fair jury (presumably) could not be obtained, it also operated to create or release prejudice on the part of certain of the judges who tried Petitioners. Those judges committed acts which no reasonable judge or attorney could consider to be within the area of normal judicial error.

For example, Judge Lawless was thrice reversed on habeas corpus petitions, growing out of these sit-ins (twice by the California Supreme Court). What he did was (1) to cancel bail and throw a group of defendants into jail for an open end term because their attorney (*sic!*) had failed to show up for one day of the trial; (2) to throw a Negro attorney into jail for his refusal to go ahead with the trial after the Court lost jurisdiction over the case because of the filing of a Federal Removal Petition; (3) to throw the same attorney into jail for not appearing on another day of the trial, without ever permitting the attorney to explain his absence.

Two other relevant examples of unusual judicial conduct are (1) the campaign speeches of Judge Horn (running against Judge Ames for Superior Court Judge during this same period) in which he contrasted "his" convictions with "Judge Ames'" acquittals;

(2) a certain judge in whose court a jury brought in a "not guilty" verdict late one afternoon was criticized before court the next morning by two of his fellow judges (who were also trying sit-in cases) for having given instructions too favorable to the defendants.

The State of California did *not* put in issue any of the facts on this Question set out in the Petition for Writ of Habeas Corpus in the California Supreme Court (nor have they been elsewhere denied by the State of California), and the Court did not take or permit the taking of any evidence.

This Question was raised in the municipal (trial court) by Petitioners by a Motion To Dismiss Or For Indefinite Continuance, before the trials and was renewed at least once before the trials, and was renewed at the beginning of certain of the trials. The Motion was invariably denied. Despite their request, Petitioners were never given a copy of the Clerk's Record in the Municipal Court in these cases, so that it is not possible to give a more particular designation.

QUESTION II.

What the Petition for Habeas Corpus in the California Supreme Court alleged was, in essence and in substance, that the Office of the District Attorney instructed the trial district attorneys (and they in the main followed these instructions) to use peremptory challenges to remove from the jury box all Negro veniremen and venirewomen. It is conceded that in a

small proportion of the trials, under pressure from defense lawyers, and some judges, this practice was abandoned and the juries in such cases contained a Negro or Negroes.

More detail as to what went on in some of the cases is furnished by the Application and Petition of Nathaniel Burbridge for Writ of Habeas Corpus in the California Supreme Court (pp. 11-13, Exs. B, C, D, E and F). These facts have *not* been denied or challenged, or other facts proposed by the State of California, either on that Petition or elsewhere.

This Question was raised in each trial court, but in different forms and ways—sometimes by a Motion to Deny the Peremptory Challenge, sometimes by a Motion for Dismissal, sometimes by a Motion for a Mistrial, sometimes by a Motion to Set Aside the Verdict or to Grant a New Trial. Invariably these Motions were denied. As stated above, the Clerk's Record was not furnished Petitioners, despite their request.

QUESTION III.

Each of the different demonstrations was made the subject of a single criminal complaint. Later, by some arbitrary method, the Muncipal Court divided up the defendants into groups of 10-15 for trial. When the trials took place, the evidence presented by the prosecution made no attempt to separate out the activities of any one defendant. Consequently, when each judge approached the problem of sentencing, the trial record

would not support any distinction in sentencing. Furthermore, almost every sentencing judge treated all of the defendants before him equally or substantially equally, and did not take account of personal differences.

Nevertheless, because of differences in the judges' social attitudes and prejudices, the range of sentences, for the same activities, and for defendants of (presumably) the same character and background, varied from fines of less than $50 on the one hand, to four months in jail on the other.

This question was raised in the Habeas Corpus Petition in the California Supreme Court which gives rise to this Petition.

QUESTION IV.

Before any of the trials took place, Acting Presiding Judge Axelrod made an offer in open court to the attorneys for Petitioners to give *any* sit-in defendant who would change his plea to *nolo contendere* a sentence of a $25 fine, a 30 day suspended sentence and a year's probation. After trial in cases he sat on Judge Axelrod imposed sentences of 30 days in jail plus a fine. After trial before all the judges, the results were as follows: 2% of the defendants were sentenced to more than four months in jail, 1% to three months, 58% to one or two months, 11% to 5-20 days and 28% to fines only.

During the trial before Judge Mana, the Judge called the defendants into Chambers and gave them

these alternatives—if they were convicted the sentence would be 45 days in jail, and if they would plead *nolo contendere* the sentence would be $25 or 5 days in jail. Various other judges offered alternatives somewhat similar to Judge Mana's, to the defendants who were on trial before them.

This Question was raised in the Habeas Corpus Petition in the California Supreme Court which gives rise to this Petition.

QUESTION V.

A large number of Petitioners were convicted of violation of California Penal Code, Section 407.

This Question was raised by various Motions, and proposed Instructions, and Motions for Acquittal in each of the trial courts. As stated above, the Clerk's Record was not furnished Petitioners, despite their request.

QUESTION VI.

A large number of Petitioners were convicted of violation of California Penal Code, Section 415.

This Question was raised by various Motions and proposed Instructions and Motions for Acquittal in each of the trial courts. As stated above, the Clerk's Record was not furnished Petitioners despite their request.

GENERAL.

The California Supreme Court in the judgment sought to be reviewed, denied Petitioners important rights (discussed above), though the facts alleged in the Petition were not disputed or challenged by the State of California, and without any hearing or opportunity given for a hearing to present facts or legal argument, nor was any opportunity allowed for briefing, nor was any notice or indication given of the reason or basis for the Court's judgment.

Though given an opportunity to produce facts or challenge or deny the facts set out by Petitioners in their Petition in the California Supreme Court—which were later repeated in the Application to the United States Supreme Court for a stay and in the Federal District Court, the State of California has not seen fit to produce facts, or challenge, or deny the facts set out by Petitioners.

These "admissions" by the State of California are emphasized by the fact that the State of California did see fit to challenge the facts on an accompanying Habeas Corpus Petition when it was before the United States Supreme Court on an Application for a Stay (see *Ann Weills, et al., Petitioners v. State of California, Respondent*).

REASONS FOR ALLOWANCE OF WRIT

QUESTION I.

It would certainly be an act of supererogation to argue the meaning of *Sheppard* and *Estes* to the Court that decided them. Suffice it to say two things. One, the facts of our case go way beyond the facts of either of those cases because of the presence (in our case) of three elements: (a) the amount and quality of "state action" and the existence of "judge's action"; (b) the prejudicial material and charges dealt with many questions beyond the issue of guilt or innocence; and (c) the content of civil rights protest, involving more sensitiveness and deeper prejudices than were present in *Sheppard* and *Estes*.

Two, assuming, *arguendo*, that the extent of proof before the State Supreme Court was not quite sufficient to ground a granting of the Petition, still and all it was certainly sufficient to entitle Petitioners to an investigation and hearing to elicit the full facts. Did not this Court in *Sheppard* hold that "appellate tribunals have the duty to make an independent evaluation of the circumstances"?

QUESTION II.

The Supreme Court in *Swain v. Alabama*, 380 U.S. 202, 13 L.Ed.2d 751, impliedly announces the doctrine that systematic use of peremptory challenges to exclude Negro jurors is unconstitutional.

We submit that such conduct also constitutes a violation of 18 U.S.C. 243 (Appendix C). In interpreting

and applying Section 243, it must be borne in mind that it was part of the Civil Rights Act of 1875 and therefore intended by Congress to cover all conceivable kinds and methods of jury disqualification based on race. Certainly Congress had in mind what this Court described with these words in *Eubanks v. Louisiana,* 356 U.S. 584, 585:

> ". . . regardless of whether the system there depriving defendants of their rights was ingenious or ingenuous."

If it be the law that the peremptory challenge is insulated from constitutional attack, then all the decisions and words of the United States Supreme Court vouchsaving to Negroes the right to sit on juries, are empty. This statement is true because in any city where the ratio of Negroes to whites on jury lists is approximately 25% or less, a prosecutor can *always* remove *all* Negroes from *all* juries by the use of peremptory challenges.

It cannot be the constitutional law of this country that when the right of Negroes to sit on juries is opposed by the right of a prosecutor to exercise a peremptory challenge, the latter prevails over the former. This is especially true because any historical analysis of the peremptory challenge will demonstrate that it was far from being considered a right worthy of Magna Charta. As a matter of fact, if the right has any fundamental meaning, it is only for the defendant and not for the prosecutor. During many periods of the Common Law in England the right of peremptory challenge was limited to the defendant.

In any event, if the right of peremptory challenge has any meaning, it is to a member of a minority group who is faced by prevalent and deep prejudice which he cannot bring to the surface through the questioning of veniremen. And yet it is proposed that the prosecutor has the right to exploit this same prevalent and deep prejudice against the Negro defendant through his use of the peremptory challenge to eliminate the only possibility that exists for a partial dilution of the prejudice—in the form of Negro jurors.

QUESTION III.

Unfortunately, the law on the constitutional infirmity of unequal sentencing by judges cannot be developed out of Supreme Court decisions thus far rendered. Rather than cite lower Court opinions, it is felt preferable to refer to the Court what it may consider a useful and enlightening article. See "Disparity and Equality of Sentences—A Constitutional Challenge", 40 F.R.D. 55.

Perhaps one reason why the law is not yet properly developed on this subject is that rarely does a case involve demonstrable equality between defendants, so that inequality of sentences becomes manifest. In our case, since an analysis will establish that the individual activities and the individual qualities of Petitioners were given no consideration at all by the sentencing judges, the question of the constitutionality of unequal sentences is squarely raised.

In recent years there has been a spate of activity by the Federal Courts to correct inequality of sentencing, not only because such inequality produced illogic and unfairness, but primarily because widespread knowledge of such inequality destroyed confidence in judges, courts, and, in the last analysis, in the American legal system. This consideration is even more applicable to our case because of the sensitivity of the civil rights area.

QUESTION IV.

No citation is needed for the proposition that the right to plead not guilty and have a trial is a fundamental constitutional right. Starting from this premise, it must be a denial of Due Process to use the kind of threat that was used in these cases in the effort to coerce the giving up of that valuable right. Is it not a fair assumption that the sentence offered in exchange for a plea of *nolo contendere* is considered by the offering judge to be a fair sentence? If this be true, the imposition of a much more severe sentence after trial constitutes punishment of the defendant for exercising his right to plead not guilty.

QUESTION V AND QUESTION VI.

This Court has in the last two or three years declared unconstitutional, especially in a civil rights protest context, laws which are no more objectionable from the standpoint of vagueness than the two California statutes which are complained of in this Peti-

tion. It is submitted that under those decisions, at least on the facts of our case, these two statutes should be voided. See *Ashton v. Kentucky,* ..... U.S. ....., 16 L.Ed.2d 469; *Edwards v. State,* 372 U.S. 229, 9 L.Ed.2d 697; and *Cox v. Louisiana,* 379 U.S. 536, 13 L.Ed.2d 471, also 379 U.S. 559, 13 L.Ed. 2d 487.

We would point out that the quotation from Justice Holmes in *Stromberg,* which is the note on which the opinion in *Edwards* ends, applies equally to our case, for the Sheraton Palace and Auto Row demonstrations were the equivalent (for San Francisco) of the Edwards demonstrations (for South Carolina) and the Cox demonstrations (for Louisiana).

CONCLUSION

For the foregoing reasons, this Petition for a Writ of Certiorari should be granted.

Dated, San Francisco, California,
December 1, 1966.

Respectfully submitted,
AUBREY GROSSMAN,
Attorney for Petitioners.

(Appendices A, B and C Follow)

Appendix A

LIST OF PETITIONERS

No. 1004¼

Appelman, Daniel J.
Schwartz, Michael
Peters, John
Fuchs, Sandor
Hayden, Fred
Kingsley, Ken
Clear, Michael
Anker, Michael
Franke, Peter
Minter, Harry
McFadden, Agnes
Burley, Laurel
King, Jonathan
Kogan, Michael
Smith, Kenneth

No. 1005

Graham, Benjamin
Kast, David
Dunwell, Stephen
Lester, Lewis
Kandal, Terry
Shannon, Byron
Ferber, Richard
Berry, Michael
Hopkins, Lambert
Kern, Stephen
Berman, Edward
Tammer, Phillip
Coopersmith, Lawrence
Laskow, Alan
Smith, Barry

No. 1007

Haskell, Eben
Walsh, Laura
Alexander, Diane
Shumer, Sara
Franke, Maria
Strozer, Teah
Schott, Diane
Rinaldo, Judy
Glaser, Leonard
Lieske, Marilyn
Allan, Susan

No. 1022

Buskirk, Marilyn
Robinson, Carol
Allen, Jaimey
Kilby, Ann
Stein, Joanne
Hooper, Carmen
Bell, Frances
Johnson, Eric
Good, Jordan
Robinson, Roy
King, Lawrence
Leigh, James

No. 1023

Weills, Anne
Petersen, James
Damman, Thos. L. Jr.
Young, Lowell
Hollander, Robert R.
Holmquist, Cam

Sandler, Guy
Valdez, Ray
Styron, Chas.
Evans, Heather
Mabry, Curtis
Frankle, Debra
Cowden, John P. Jr.

No. 1024

Castel, Luria
Dawson, Kipp
DeCanio, Steven
Forest, Roseann
Geier, Joel
Gibbon, Wm.

No. 1025

Gonsalves, Joseph
Hallinan, Matthew
Benner, Bruce
Coleman, Hilbert
Williams, Harry
Bancroft, Wm.
Manderfelt, Richard
Glaser, Leonard
Houghton, John
Herman, Stuart
Argent, Stefan
Davis, Howard
Allen, Halket

No. 1026

Minter, Harry
Lipney, Stephanie
Pinney, Nancy
Hart, Willie
Morris, Dorothy
Heller, Bruce
Katz, Arnold
Laskow, Alan
Meade, Tonia
Miller, Thos.
Peters, John

No. 1027

Evans, Heather
Anderson, Robert
Chapnick, Carol
Chastain, Norman
Davis, Howard
Gleason, Gene
Allen, Jaimey
Ballard, Willie
Carpenter, Ernest
Cole, Lawrence
Gerke, Sherman
Hansen, Mark

No. 1028

Johnson, Charles
Love, Charles
Krumel, Mark Steve
Kahn, Steven
Myerson, Mark Walter
Leburg, Vivian
King, Laurence
Jones, Percy

No. 1029

Pirtle, Sandra
Styron, Charles
Scully, Rock
Robertson, Maureen
Young, Lowell

Sims, Tracy
Saslow, Shepard
Styron, Mary
Robinson, Roy
Strauss, Richard David
Rollins, Richard

No. 1030

Saslaw, Shepard
Flick, Stephen
Richards, Paul
Richardson, David
Miller, Thomas
Moore, Irwin
Vanderhoeft, Garrit
Wilson, Edward
Seidell, Howard
Retherford, Robert
Bergman, Lincoln
Wells, Michael

No. 1131¼

Krumel, Mark
Sarrett, Sandra
Laskow, Alan
Jones, Lucille
Myers, Darrel
Sullivan, Thomas
Burbridge, Thomas N.
Tanner, George
Hansen, Mark
Hallinan, Terence
Chastain, Norman
Werksman, Karen
Jones, Woodrow
Price, Louis
Castel, Luria

No. 1131½

Castel, Luria
Schiff, Helen
Friedman, Michael
Pegues, Charles
Cobet, Louis
Styron, Mary
Andersch, Gerald
Chown, Linda
Kern, Stephen
Milstein, Margaret
Coopersmith, Laurence
Simmons, Cyril
Gerke, Sherman

No. 1036

Hayden, Sterling
Weiss, Jack
Williams, Robert
Yanow, Jerrie
Weinstein, Mary
Wellington, Robinson
West, Anna
White, June
Wishart, Blaine
Zins, Jack
Burnett, James

No. 1038

Supriano, Harold
Ussery, Wilfred
Washington, Gloria
Weiss, Peter
Weinberg, Jack
Wylie, Christopher
Olmstead, Robert
Stern, Eli

Thomas, Charles
Williams, Susan

No. 1041

Myers, Nell
Nelson, Mary
Newman,
Nichols,
Nordby,
Ofman,
Ogden, James
Olsen, Katherine
Pegues,
Powell,
Richards, Paul
Roland, Susan
Roland, T.
Rolfsen,
Peterson, James

No. 1042

Hallinan, Conn
Hallinan, Matthew
Hallinan, Terence
Hallinan, Patrick
Hallinan, Vivian
Hughes, Genevieve
Houghton, John
Hoag, Kenneth
Harer, Corie

No. 1043

Ross, Anne
Seabrook, Ella
Stallinger, Sharon
Sullivan, Cathy (aka Cathy Sullivan Gallagher)
Valdez, Ray
Van Der Hoogt, Gerrit

No. 1049

Allen, Halket
Kahn, Lessing Jr.
Franklin, Ruth
Freeman, Jo

No. 1064

Rohman, Ron
Lupher, Tom
Scherr, Sergio
Myers, Derrell
Plageman, Stephen
Dibella, Christopher
Sweeny, William
Davis, Howard L. Jr.
Good, Jordan
DeCanio, Stephen
David, Dallas

No. 1094½

Argent, Stefan
Bancroft, Naomi
Bancroft, William
Bradley, William
Burkett, Karol
Burton, Virginia
Carmody, John
Adams, John
(aka John Carr)
Damman, Tom L.

Appendix B

STATUTES INVOLVED

California Penal Code, Section 407:

"'Unlawful Assembly' Defined. Whenever two or more persons assemble together to do an unlawful act, and separate without doing or advancing toward it, or do a lawful act in a violent, boisterous, or tumultuous manner, such assembly is an unlawful assembly."

California Penal Code, Section 415:

"Every person who maliciously and willfully disturbs the peace or quiet of any neighborhood or person, by loud or unusual noise, or by tumultuous or offensive conduct, or threatening, traducing, quarreling, challenging to fight, or fighting, or who, on the public streets of any unincorporated town, or upon the public highways in such unincorporated town, run any horse race, either for a wager or for amusement, or fire any gun or pistol in such unincorporated town, or use any vulgar, profane, or indecent language within the presence or hearing of women or children, in a loud and boisterous manner, is guilty of a misdemeanor, and upon conviction by any Court of competent jurisdiction shall be punished by fine not exceeding two hundred dollars, or by imprisonment in the County Jail for not more than ninety days, or by both fine and imprisonment, or either, at the discretion of the Court."

Appendix C

18 *U.S.C.* 234:

"No citizen possessing all other qualifications which are or may be prescribed by law shall be disqualified for service as a grand or petit juror in any Court of the United States, or of any State on account of race, color, or previous condition of servitude; and whoever, being an officer or other person charged with any duty in the selection or summoning of jurors, excludes or fails to summon any citizen for such cause, shall be fined not more than $5,000."

APPENDIX